

## REMARKS

This response is in reply to the Office Action mailed December 14, 2006. Claims 1-33 are pending in the application with claims 1-33 are rejected.

Claims 1-33 are rejected under 35 USC 102(b) as being anticipated by US Patent No. 5,462,553, hereinafter referred to as Dolgin. Dolgin describes a device used to remove polyps which includes a loop for fully encircling a polyp and electrically cauterizing the polyp.

Claim 1 requires engaging a conductive hook with a polyp, and claim 14 requires a severing head including a conductive hook for engaging the polyp. The patent Office has misconstrued the claim term "hook". A claim term must be construed in light of the specification and in a manner consistent with the way a person of ordinary skill in the art would construe the term in view of the specification.

In the present application, the term "hook" means an object shaped generally like a fishhook. That is, an open space is disposed between a terminal end and the main body of the hook as shown in Figure 2 and as described in the specification on page 4, lines 14 – 15. Thus, in the context of the present application, the term "hook" means an object having a terminal end spaced from a body portion and which define an opening between the body portion and the terminal end. The meaning of "hook" is readily apparent from the specification. However, because the applicant can be his own lexicographer, the meaning for the term "hook" stated above is expressly adopted. This construction is entirely consistent with the specification and with how a person of ordinary skill in the art would construe the term in the context of the present application. This construction is also consistent with the plain and ordinary meaning of the term "hook," especially in the context of the specification.

This construction precludes a loop. Applicant cannot determine how the Patent Office construed the term "hook." Whatever the construction given by the Patent Office, that construction is unreasonably broad and inconsistent with the specification. Moreover, the

Patent Office's construction is inconsistent with how a person of ordinary skill in the art would construe the term. A person ordinarily skilled in the art, viewing the specification and the drawings, would never deem the term "hook" to encompass a loop that totally encircles a polyp.

Claim 22 requires removing a polyp by closing a pair of conductive forceps around a polyp, and claim 27 requires a polyp severing head including a pair of forceps for engaging the polyp. It is not understood how the Patent Office has construed the claim term "forceps". The construction apparently, however, is so broad as to include a loop of wire as described in Dolgrin. Forceps are pincer- or tong-like devices for grasping, manipulating, or extracting. See Exhibit I. This construction is consistent with the specification including the drawings.

No reasonable construction of the term "forceps" that can include the loop of Dolgrin. Any construction of the term "forceps" that includes the loop of Dolgrin would be inconsistent with the ordinary definition of the term. Such a construction would not comport with the understanding of the term by one of ordinary skill in the art and would be at odds with the manner in which the term is used in the specification. Accordingly, claim 22, claim 27, and dependent claims 23-26 and 28-33 are not anticipated by Dolgrin.

Additionally the device and method described by Dolgrin appear to have been misunderstood by the Patent Office. The Dolgrin device is a loop for fully encircling a polyp and, by cautery, rendering the polyp removable. The loop of Dolgrin is designed to be broken or opened in the unhappy but possible event that cautery is not successful in fully severing the polyp from the substrate. In such an event, it is common for the loop to be lodged or embedded in the stem of the polyp such that it cannot be removed without surgery. Dolgrin provides a frangible portion in the loop that may be broken to open the loop so that the device may be withdrawn from the patient. Thus, the frangible portion of the loop is incorporated as a safety feature and is only used in a case where the loop fails to operate as intended. The frangible portion of the loop does not transform Dolgrin's loop into a hook or forceps. As has been

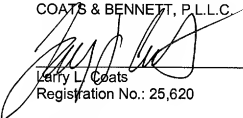
discussed above, the loop is distinctly different in structure and use from Applicant's hook and forceps.

Claim 10 is currently amended to correct a spelling error.

In view of the above amendments and remarks, Applicant's submit that the present application is in condition for allowance and such action is respectfully requested. If any issues remain unresolved, Applicant's attorney requests a telephone interview to expedite prosecution.

Respectfully submitted,

COATS & BENNETT, P.L.L.C.



Jerry L. Coats  
Registration No.: 25,620

Dated: April 16, 2007

P.O. Box 5  
Raleigh, NC 27602  
Telephone: (919) 854-1844  
Facsimile: (919) 854-2084

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## Definition of forceps

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### NOUN:

*pl.* **forceps**

1. An instrument resembling a pair of pincers or tongs, used for grasping, manipulating, or extracting, especially such an instrument used by a surgeon.
2. A pincerlike pair of movable appendages at the posterior end of the abdomen in certain insects, such as earwigs.

EXHIBIT

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